

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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DISTRICT OF NEVADA	
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JASON ERIC SONNTAG,
Plaintiff,
v.
KENNETH GURRIES, et al.,
Defendants.

3:09-CV-0637-ECR-VPC

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

January 28, 2011

This Report and Recommendation is made to the Honorable Robert C. Jones, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

Plaintiff's complaint was filed on July 1, 2010 (#12). On July 27, 2010 the Office of the Attorney General accepted service on behalf of eight individual defendants (#14). The Office of the Attorney General declined to accept service on behalf of Mr. Patterson, Miller, or Gibson because there are multiple Nevada Department of Corrections employees with this last name. *Id.* In addition, service was not accepted for defendants Beng, C. Collier or Couzine because the Office of the Attorney General was not able to ascertain the identity of these persons. *Id.* Plaintiff was served by mail with a copy of the notice of acceptance of service. *Id.*

At no time did plaintiff file a notice with the court further identifying the unserved defendants or a motion requesting that service of process be attempted on the unserved defendants. On December 27, 2010, plaintiff was sent a notice regarding the court's intention to dismiss Patterson, Miller, Gibson, Beng, Collier, and Couzine pursuant to Rule 4(m) of the Federal Rules of Civil Procedure (#50). Plaintiff filed an opposition to dismiss Patterson, Miller, Gibson, Collier and Couzine (#56).

In his opposition, plaintiff states that he served these individuals through Susan Lee, the Deputy Attorney General assigned to this case in June 2010 (#56). This does not constitute proper service pursuant to Fed.R.Civ.P. 4(m). Plaintiff further states that he doesn't oppose the dismissal of Beng and Couzine because he cannot recall "what part they played. . . ." *Id.* Plaintiff has not demonstrated good cause why these defendants were not properly served.

Based on the foregoing, the undersigned Magistrate Judge recommends that the District Court enter an order dismissing defendants Patterson, Miller, Gibson, Beng, Collier and Couzine.

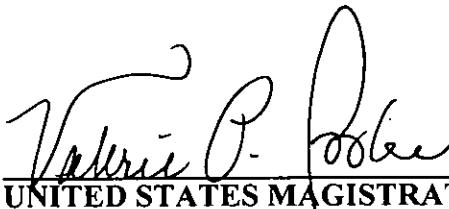
1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice, the parties may file specific written objections to this report and recommendation within fourteen days of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the District Court.

2. This report and recommendation is not an appealable order and any notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's judgment.

RECOMMENDATION

IT IS THEREFORE RECOMMENDED that the District Court enter and order **DISMISSING** defendants Patterson, Miller, Gibson, Beng, Collier and Couzine.

DATED: January 28, 2011



UNITED STATES MAGISTRATE JUDGE